

Senate Engrossed  
tuition; postsecondary education

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

## **SENATE CONCURRENT RESOLUTION 1044**

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING  
TO THE CLASSIFICATION OF STUDENTS FOR TUITION PURPOSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of  
2 Representatives concurring:

3 1. Under the power of the referendum, as vested in the Legislature,  
4 the following measure, relating to the classification of students for  
5 tuition purposes, is enacted to become valid as a law if approved by the  
6 voters and on proclamation of the Governor:

7 AN ACT

8 AMENDING SECTIONS 1-502 AND 15-1803, ARIZONA REVISED STATUTES;  
9 REPEALING SECTION 15-1825, ARIZONA REVISED STATUTES; RELATING  
10 TO THE CLASSIFICATION OF STUDENTS FOR TUITION PURPOSES.

11 Be it enacted by the Legislature of the State of  
12 Arizona:

13 Section 1. Section 1-502, Arizona Revised Statutes, is  
14 amended to read:

15 1-502. Eligibility for state or local public benefits;  
16 documentation; violations; classification;  
17 citizen suits; court costs and attorney fees;  
18 definition

19 A. Notwithstanding any other state law and to the  
20 extent ~~permitted~~ ALLOWED by federal law, any agency of this  
21 state or a political subdivision of this state that  
22 administers any state or local public benefit shall require  
23 each natural person who applies for the state or local public  
24 benefit to submit at least one of the following documents to  
25 the entity that administers the state or local public benefit  
26 demonstrating lawful presence in the United States:

27 1. An Arizona driver license issued after 1996 or an  
28 Arizona nonoperating identification license.

29 2. A birth certificate or delayed birth certificate  
30 issued in any state, territory or possession of the United  
31 States.

32 3. A United States certificate of birth abroad.

33 4. A United States passport.

34 5. A foreign passport with a United States visa.

35 6. An I-94 form with a photograph.

36 7. A United States citizenship and immigration services  
37 employment authorization document or refugee travel document.

38 8. A United States certificate of naturalization.

39 9. A United States certificate of citizenship.

40 10. A tribal certificate of Indian blood.

41 11. A tribal or bureau of Indian affairs affidavit of  
42 birth.

1           B. For the purposes of administering the Arizona health  
2           care cost containment system, documentation of citizenship and  
3           legal residence shall conform with the requirements of title  
4           XIX of the social security act.

5           C. To the extent ~~permitted~~ ALLOWED by federal law, an  
6           agency of this state or political subdivision of this state  
7           may allow tribal members, the elderly and persons with  
8           disabilities or incapacity of the mind or body to provide  
9           documentation as specified in section 6036 of the federal  
10          deficit reduction act of 2005 (P.L. 109-171; 120 Stat. 81) and  
11          related federal guidance in lieu of the documentation required  
12          by this section.

13          D. Any person who applies for state or local public  
14          benefits shall sign a sworn affidavit stating that the  
15          documents presented pursuant to subsection A of this section  
16          are true under penalty of perjury.

17          E. Failure to report discovered violations of federal  
18          immigration law by an employee of an agency of this state or a  
19          political subdivision of this state that administers any state  
20          or local public benefit is a class 2 misdemeanor. If that  
21          employee's supervisor knew of the failure to report and failed  
22          to direct the employee to make the report, the supervisor is  
23          guilty of a class 2 misdemeanor.

24          F. This section shall be enforced without regard to  
25          race, color, religion, sex, age, disability or national  
26          origin.

27          G. Any person who is a resident of this state has  
28          standing in any court of record to bring suit against any  
29          agent or agency of this state or its political subdivisions to  
30          remedy any violation of any provision of this section,  
31          including an action for mandamus. Courts shall give  
32          preference to actions brought under this section over other  
33          civil actions or proceedings pending in the court.

34          H. The court may award court costs and reasonable  
35          attorney fees to any person or any official or agency of this  
36          state or a county, city, town or other political subdivision  
37          of this state that prevails by an adjudication on the merits  
38          in a proceeding brought pursuant to this section.

39          I. For the purposes of this section, "state or local  
40          public benefit" has the same meaning prescribed in 8 United  
41          States Code section 1621, except that it does not include  
42          commercial or professional licenses, POSTSECONDARY EDUCATION,  
43          benefits provided by the public retirement systems and plans  
44          of this state or services widely available to the general  
45          population as a whole.

1           Sec. 2. Section 15-1803, Arizona Revised Statutes, is  
2 amended to read:

3           15-1803. Alien in-state student status; nonresident  
4           tuition exemption

5           A. An alien is entitled to classification as an  
6 in-state refugee student if ~~such~~ THE person has been granted  
7 refugee status in accordance with all applicable laws of the  
8 United States and has met all other requirements for domicile.

9           ~~B. In accordance with the illegal immigration reform~~  
10 ~~and immigrant responsibility act of 1996 (P.L. 104-208, 110~~  
11 ~~Stat. 3009), a person who was not a citizen or legal resident~~  
12 ~~of the United States or who is without lawful immigration~~  
13 ~~status is not entitled to classification as an in-state~~  
14 ~~student pursuant to section 15-1802 or entitled to~~  
15 ~~classification as a county resident pursuant to section~~  
16 ~~15-1802.01.~~

17           ~~C. Each community college and university shall report~~  
18 ~~on December 31 and June 30 of each year to the joint~~  
19 ~~legislative budget committee the total number of students who~~  
20 ~~were entitled to classification as an in-state student and the~~  
21 ~~total number of students who were not entitled to~~  
22 ~~classification as an in-state student under this section~~  
23 ~~because the student was not a citizen or legal resident of the~~  
24 ~~United States or is without lawful immigration status.~~

25           B. NOTWITHSTANDING ANY OTHER LAW, A STUDENT, OTHER THAN  
26 A NONIMMIGRANT ALIEN AS DESCRIBED IN 8 UNITED STATES CODE  
27 SECTION 1101(a)(15), WHO MEETS BOTH OF THE FOLLOWING  
28 REQUIREMENTS IS ELIGIBLE FOR IN-STATE TUITION AT ANY  
29 UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF  
30 REGENTS OR AT ANY COMMUNITY COLLEGE AS DEFINED IN SECTION  
31 15-1401:

32           1. ATTENDED ANY PUBLIC OR PRIVATE HIGH SCHOOL OPTION OR  
33 HOMESCHOOL EQUIVALENT PURSUANT TO SECTION 15-802 WHILE  
34 PHYSICALLY PRESENT IN THIS STATE FOR AT LEAST TWO YEARS.

35           2. GRADUATED FROM ANY PUBLIC OR PRIVATE HIGH SCHOOL  
36 OPTION OR HOMESCHOOL EQUIVALENT PURSUANT TO SECTION 15-802  
37 WHILE PHYSICALLY PRESENT IN THIS STATE OR OBTAINED A HIGH  
38 SCHOOL EQUIVALENCY DIPLOMA IN THIS STATE.

39           C. PERSONS WITHOUT LAWFUL IMMIGRATION STATUS ARE  
40 ELIGIBLE FOR IN-STATE TUITION PURSUANT TO SUBSECTION B OF THIS  
41 SECTION.

42           Sec. 3. Repeal

43           Section 15-1825, Arizona Revised Statutes, is repealed.

44           2. The Secretary of State shall submit this proposition to the  
45 voters at the next general election as provided by article IV, part 1,  
46 section 1, Constitution of Arizona.